

62A-3-318 Petition by division for protective services -- Notice -- Rights of adult.

- (1) If the division determines that a vulnerable adult is in need of protective services but lacks capacity to consent to protective services, the division may petition the district court for an order authorizing the division to provide protective services. The petition shall include:
 - (a) the name, address, and age of the adult who is the subject of the petition;
 - (b) the reasonably ascertainable names and addresses of the spouse, parents, adult children, and caretaker of the adult who is the subject of the petition;
 - (c) the name and address of any court-appointed guardian or conservator for the adult;
 - (d) specific facts sufficient to show that the subject of the petition is a vulnerable adult in need of protective services; and
 - (e) specific facts sufficient to show that the vulnerable adult lacks capacity to consent.
- (2) Upon the filing of a petition, the court shall set a date for hearing on the petition. At least 10 days' notice of the petition and the hearing shall be given to the adult who is the subject of the petition and to each other person identified in Subsection (1)(b) or (c).
- (3) The notice shall be in plain language and in at least a 14-point font. The notice shall indicate the time and place of the hearing, the possible adverse consequences to the adult, and a list of rights as set forth in Subsections (4), (6), and (7). The petition and notice shall be served personally upon the adult who is the subject of the petition and upon the adult's spouse, caretaker, and parents if they can be found within the state. Notice to the spouse, caretaker, and parents, if they cannot be found within the state, and to other persons shall be given by first-class mail, postage prepaid.
- (4) The adult who is the subject of the petition shall have the right to be present at the hearing, unless the adult has knowingly and voluntarily waived the right to be present, or unless a licensed physician has certified that the adult is physically unable to attend. Waiver shall not be presumed by nonappearance of the adult, but shall be determined by the court on the basis of evidence provided to the court.
- (5) The adult who is the subject of the petition may be examined by a licensed physician appointed by the court, who shall submit a written report to the court. The adult may be interviewed by a visitor, as defined in Section 75-5-308, appointed by the court, who shall submit a written report to the court. The visitor may also interview knowledgeable persons at the division and others who have knowledge of the adult who is the subject of the petition.
- (6) The adult who is the subject of the petition has the right to be represented by counsel at all proceedings before the court. Unless the adult has retained counsel, the court shall appoint counsel. The fees of the adult's counsel shall be paid by the adult who is the subject of the petition unless the adult is indigent in which case the division will pay the adult's reasonable attorney fees.
- (7) The adult who is the subject of the petition is entitled to present evidence and to cross-examine witnesses, including any court-appointed physician and visitor. The issues may be determined at a closed hearing if the adult who is the subject of the petition so requests.
- (8) Nothing in this section limits proceedings under Title 75, Utah Uniform Probate Code.

Amended by Chapter 91, 2008 General Session